

Sunsets 1/1/2016

48-2c-1005 Limitations on distributions.

- (1) No distribution may be made by a company if, after giving effect to the distribution:
 - (a) the company would not be able to pay its debts as they become due in the usual and regular course of its business; or
 - (b) the value of the company's total assets would be less than the sum of its total liabilities plus, unless the articles of organization or the operating agreement permits otherwise, the amount that would be needed, if the company were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of members whose preferential rights are superior to the rights of members receiving the distribution.
- (2) The company may base a determination that a distribution is not prohibited under Subsection (1) either on:
 - (a) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or
 - (b) a fair valuation or other method that is reasonable in the circumstances.
- (3) The effect of a distribution under Subsection (1) is measured as of:
 - (a) the date the distribution is authorized if the payment occurs within 30 days after the date of authorization; or
 - (b) the date the payment is made if it occurs more than 30 days after the date of authorization.